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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Right to development

Report of the Secretary-General and the United Nations High Commissioner for Human Rights

Summary

The present report contains an overview of the activities of the Office of the United Nations High Commissioner for Human Rights on the promotion and realization of the right to development from June 2017 to May 2018. The report also provides an analysis of the implementation of the right to development, taking into account existing challenges and making recommendations on how to overcome them. The report complements the report of the Secretary-General and the High Commissioner on the right to development submitted to the Human Rights Council at its thirty-sixth session (A/HRC/36/23).

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I. Introduction

1. In its resolution 48/141, establishing the post of United Nations High Commissioner for Human Rights, the General Assembly decided that the High Commissioner should promote and protect the realization of the right to development and enhance support from relevant bodies of the United Nations system for this purpose. The General Assembly also decided that the High Commissioner should recognize the importance of promoting balanced and sustainable development for all people and of ensuring the realization of the right to development, as established in the Declaration on the Right to Development.

2. The Human Rights Council, in its resolution 36/9, requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to continue to submit to the Council an annual report on its activities, including on inter-agency coordination within the United Nations system, that have direct relevance to the realization of the right to development, and to provide an analysis of the implementation of the right to development, taking into account existing challenges and making recommendations on how to overcome them.

3. In its resolution 72/167, the General Assembly reaffirmed its request to the High Commissioner, in mainstreaming the right to development, to effectively undertake activities aimed at strengthening the global partnership for development among Member States, development agencies and the international development, financial and trade institutions and to reflect those activities in detail in his next report to the Human Rights Council.

4. In the same resolution, the General Assembly requested the Secretary-General to submit a report to the Assembly at its seventy-third session and an interim report to the Human Rights Council on the implementation of the present resolution, including efforts undertaken at the national, regional and international levels in the promotion and realization of the right to development.

5. The present report is submitted in accordance with the above requests. It contains an overview of the activities of the Office relating to the promotion and realization of the right to development, covering the period from June 2017 to May 2018, and an analysis of the implementation of the right to development, existing challenges and recommendations on how to overcome them.

II. Activities of the Office of the United Nations High Commissioner for Human Rights

6. In implementing its mandate to promote and protect the realization of the right to development, the Office is guided by the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, relevant resolutions of the General Assembly and the Human Rights Council and conclusions and recommendations of the Working Group on the Right to Development.

7. The OHCHR operational framework for promoting and protecting the realization of the right to development is contained in the strategic framework for the period 2018–2019 and OHCHR Management Plan for the period 2018–2021.[1]

[1] See A/71/6 (Prog. 20), pp. 4–7; OHCHR, United Nations Human Rights Management Plan 2018–2021 (HRC/NONE/2018/17). Available at www2.ohchr.org/english/ohchrreport2018_2021/OHCHRManagementPlan2018-2021.pdf.

A. Support to the Working Group on the Right to Development

8. OHCHR provided support to the Working Group on the Right to Development for the organization of its nineteenth session, held from 23 to 26 April 2018 (A/HRC/39/56). It also supported the Chair-Rapporteur during the intersessional period in holding informal consultations and presenting the report of the Working Group to the Human Rights Council and the General Assembly.

9. At its nineteenth session, the Working Group held interactive dialogue with the Special Rapporteur on the right to development and with experts on the implementation and realization of the right to development. It also considered contributions made by States at the national, regional and international levels to the implementation of the right to development; drafted criteria and corresponding operational subcriteria on the right to development; and drew up a comprehensive and coherent set of standards for the implementation of the right to development.[2]

B. Support to the Special Rapporteur on the right to development

10. OHCHR also supported the new Special Rapporteur on the right to development, who took up his role on 1 May 2017. During the period under review, he presented his vision report (A/HRC/36/49), in which he outlined the background and context of the mandate, challenges for its implementation and a strategy, as well as specific work streams. The report also detailed the Special Rapporteur's approach to engagement with stakeholders and his methods of work.

11. In accordance with Council resolution 36/9, the Special Rapporteur is convening regional consultations on the practical implementation of the right to development. The objective of these consultations is to identify good practices in designing, implementing, monitoring and assessing policies and programmes that contribute to the realization of the right to development. The first consultation, for the African region, took place in Addis Ababa from 27 to 29 March 2018. The consultations will feed into the development of guidelines and recommendations for designing, monitoring and assessing the structures, processes and outcomes of human rights-informed development policies. They will also identify indicators and measurements.

12. In resolution 33/14, the Council also requested the Special Rapporteur to contribute to the work of the Working Group on the Right to Development, with a view to supporting the accomplishment of its overall mandate. Consequently, the Special Rapporteur participated in informal consultations held by the Chair-Rapporteur of the Working Group with representatives of Member States and civil society organizations in September 2017 and participated in the nineteenth session of the Working Group.

C. Support to the Advisory Committee

13. At the request of the Advisory Committee, OHCHR provided expert input and shared information in relation to a study on the ways in which development contributes to the enjoyment of all human rights that the Committee is preparing as requested by the Council (Council resolution 35/21). The study draws on contributions received from States, United Nations and other intergovernmental bodies and agencies, non-governmental organizations, national human rights institutions and other stakeholders and will be submitted to the Council at its forty-first session.

D. Activities for the promotion and realization of the right to development

14. During the period under review, OHCHR organized and supported numerous activities that have direct relevance to the realization of the right to development, including

[2] The report is contained in document A/HRC/39/56.

in the context of the implementation of the 2030 Agenda for Sustainable Development. Some examples are provided below.[3]

15. In July 2017, OHCHR delivered a presentation on the right to development at the Second Regional Conference on the Protection and Promotion of Human Rights "Human rights-based approach to the implementation of the 2030 Agenda for Sustainable Development in the Arab Region", organized by OHCHR and the League of Arab States and held in Cairo.

16. In September 2017, OHCHR organized the biennial panel discussion on unilateral coercive measures and human rights. The objective of the panel is to increase awareness among all stakeholders, including United Nations human rights mechanisms, of the negative impact of unilateral coercive measures on the enjoyment of human rights in countries targeted by unilateral coercive measures and in third countries (see Council resolution 37/21). The panel theme was "Resources and compensation necessary to promote accountability and reparation". Its objective was to identify principles, guidelines and mechanisms for assessing, mitigating and redressing the adverse impact of unilateral coercive measures.

17. In December 2017, OHCHR participated in the South-South Human Rights Forum in China. The Office provided contributions on "Realization of inclusive development and human rights under South-South cooperation" and "Building a community of shared future for mankind and promoting global human rights governance", integrating the right to development, human rights, peace, sustainable development, international cooperation and related issues.

18. OHCHR participated in a Human Rights Council side event entitled "Realizing the right to development through connectivity – China-Pakistan economic corridor", organized by the Permanent Mission of Pakistan in Geneva. The event was premised on the idea that "connectivity" of remote areas and regions with urban centres and trading hubs can help bring about transformation, alleviate poverty and address inequalities. OHCHR underlined the key role of the right to development in this context. Constructive development must advance human, environmentally protective, well-being, with special attention given to the vulnerable and marginalized, including women and girls living in remote, rural areas.

19. OHCHR organized and participated in a number of events focused on environmental issues, including climate change and its impact on the right to development. It advocated for the integration of the right to development in the implementation guidelines for the Paris Agreement under the United Nations Framework Convention on Climate Change. OHCHR organized a briefing on the Twenty-third Conference of the Parties to the United Nations Framework Convention on Climate Change, a meeting on the Talanoa dialogue platform, two side events on general recommendation No. 37 (2018) of the Committee on the Elimination of Discrimination against Women on gender-related dimensions of disaster risk reduction in the context of climate change, the Expert Meeting "Promoting rights-based climate finance for people and planet"[4] and the Human Rights Council panel discussion on human rights, climate change and migration (see A/HRC/37/35). The Deputy High Commissioner participated in the launch of the Environmental Rights Initiative. OHCHR also participated in a meeting at the International Human Rights Conference of Pakistan, which discussed the operationalization of the local communities and indigenous peoples' platform at the Conference of the Parties to the United Nations Framework Convention on Climate Change, and participated in a number of events at the twenty-third session of the Conference of the Parties to the United Nations Framework Convention on Climate Change

[3] More information on these and other activities is available at www.ohchr.org/EN/Issues/Development/Pages/DevelopmentIndex.aspx.

[4] See "Promoting rights-based climate finance for people and planet". Available from www.ohchr.org/EN/Issues/Development/Pages/19thSession.aspx.

and the Third United Nations Environment Assembly. OHCHR submitted multiple reports on climate change and migration to the Human Rights Council.[5]

20. In July 2017, OHCHR participated in the World Trade Organization's Global Review on Aid for Trade, which had as its theme "Promoting trade, inclusiveness and connectivity for sustainable development". In September 2017, OHCHR took part in the panel "Africa's continental free trade area: achieving human rights-consistent development" of the World Trade Organization's annual public forum, entitled "Trade: behind the headlines".

21. OHCHR made efforts to raise awareness on the right to development, including through research and analysis, development of resources and tools and the dissemination of publications both within and beyond the Office. The Office continued its outreach and advocacy on the right to development and provided briefings to various partners and civil society groups with a view to revitalizing the dialogue and building support for the right to development.

22. OHCHR developed an e-learning module on "Operationalizing the right to development in implementing the SDGs" jointly with the University for Peace and the United Nations University International Institute for Global Health, in collaboration with academics. The module explains how the right to development can be operationalized in the implementation of the Sustainable Development Goals, especially its international dimensions vis-à-vis Sustainable Development Goal 17 on "Revitalize the global partnership for sustainable development".

23. OHCHR undertook studies, which contributed to the work of the nineteenth session of the Working Group on the Right to Development. The studies addressed issues such as the international dimensions of the right to development; illicit financial flows; international investment agreements and industrialization; and promoting rights-based climate finance for people and planet.[6]

24. In order to promote the right to development in Guinea-Bissau, OHCHR, in cooperation with the United Nations Integrated Peacebuilding Office in Guinea-Bissau, undertook several initiatives involving relevant stakeholders. Among other things, OHCHR provided technical assistance and advice for the mainstreaming of human rights, including the right to development, in the National Development Plan of Guinea-Bissau.

25. In Madagascar, OHCHR organized a round-table discussion to draft a tripartite charter for sustainable development and respect for human rights in the framework of private investments. OHCHR also conducted training for national authorities to build their capacity to apply a human rights-based approach in drawing up the national development plan.

26. In Guatemala, OHCHR has worked to promote the rights of indigenous peoples and to address inequality and extreme poverty. Measures for capacity-building and support to strategic litigation have helped empower indigenous peoples to participate in the formulation of policies in support of their right to development. The Office has also coordinated with other United Nations agencies in advising those responsible for the country's statistics system to adopt a human-rights-based approach to data, including by disaggregating data to guide development policies aiming at leaving no one behind.

27. In December 2017, OHCHR organized, jointly with the United Nations Population Fund and the United Nations Entity for Gender Equality and the Empowerment of Women, a seminar entitled, "Leaving no one behind on the road to sustainable development" in Timor-Leste. The event aimed at raising awareness of the situation of specific vulnerable groups and making recommendations for their integration in development.

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[5] A/HRC/37/35 and a study on the slow onset effects of climate change and human rights protection for cross-border migrants, available from www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Pages/ListReports.aspx.

[6] The studies are available from www.ohchr.org/EN/Issues/Development/Pages/19thSession.aspx.

III. Analysis of the implementation of the right to development, existing challenges and recommendations to overcome them

28. In its resolution 70/299, the General Assembly decided that the theme to be reviewed by the high-level political forum in 2019 would be "Empowering people and ensuring inclusiveness and equality". More specifically, it decided to review in depth Sustainable Development Goal 10 (Reduce inequality within and among countries), among other Goals, as well as the means of implementation, including with respect to Goal 17 (Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development).

29. As a contribution to this thematic review, the present report focuses on the inter-State dimension of Goal 10, the need to reduce inequality among countries, analysed from the perspective of the right to development and linked to the other Goals, in particular Goal 17. The present report does not intend to be exhaustive in the number of topics covered, nor in the depth of each of them.

A. Equality and non-discrimination among countries

30. The principles of equality and non-discrimination are at the heart of international human rights law. Article 1 of the Universal Declaration of Human Rights stipulates that: "All human beings are born free and equal in dignity and rights". There are several aspects to equality as a legal principle, or its antonyms inequality and discrimination, which are relevant to the discussion of inequality between countries.

31. First, equality derives its substantive content from the rights, laws or facts to which it is applied. It relies on comparison and is therefore relative, either in respect of certain characteristics or without any specific disaggregation, to a comparator, with regard to legally relevant facts.[7] In law, the principle of equality can be applied to all subjects with legal personality entitled to the rights to equality and non-discrimination, either as an autonomous, free-standing right to equality or as an accessory right to non-discrimination. Under international human rights law, these include only individuals, groups and peoples. Under other areas of international law, these can include States or legal persons, for example businesses.

32. Second, equality can be considered according to several factors. For example, on the basis of the material scope of application, such as political, economic or social inequality, or the territorial scope of application, such as inequality within countries or regions, among countries, or in global settings, such as in international organizations or global inequality. Inequality can also be divided into horizontal and vertical inequality. Horizontal inequality is defined as inequality among culturally defined or constructed groups, in contrast to vertical inequality, which is inequality among households or individuals, such as wealth and income inequality (CEB/2016/6/Add.1, p. 21).

33. Third, equality has several dimensions. Equality can be formal, de jure, or substantive, de facto. It can be equality of opportunity or equality of results; it can be characterized as transformative or inclusive.[8]

34. Fourth, equality implies the prohibition of discrimination.[9] Discrimination is understood to imply any distinction, exclusion, restriction or preference that is based on a prohibited ground and that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms. Discrimination can be direct or indirect; it can occur in the public and private

[7] Kristin Henrad, "Equality of Individuality", *Max Planck Encyclopedia of Public International Law*, 2008, para. 88.

[8] For the latter concept and more generally on equality and non-discrimination, see Committee on the Rights of Persons with Disabilities, general comment No. 6 (2018) on equality and non-discrimination.

[9] See, for example, Human Rights Committee, general comment No. 18 (1989) on non-discrimination.

spheres and it can be systemic or structural. International human rights instruments typically contain a non-exhaustive list of prohibited grounds of discrimination, including "property" — comprising wealth and income — as well as "other status". The Committee on Economic, Social and Cultural Rights subsumes a person's social and economic situation, such as the situation in which the poor and homeless find themselves, in the latter category.[10] Not every differentiation amounts to prohibited discrimination, however, if there is a reasonable and objective justification for the differential treatment. Thus, if a complainant can provide evidence for a prima facie case of discrimination, the burden of proving that the differentiation was reasonable and objectively justified or the consequence of an alternative explanation shifts to the respondent.

35. Finally, in order to eliminate substantive inequality, States may be under an obligation to adopt special measures to remedy the conditions causing the discrimination in question.[11]

36. International human rights law applies primarily in the relationship between States and persons or sub-State groups subject to their jurisdiction and individuals within the power or effective control of the respective State.

37. Sovereign equality of States is a fundamental principle of international law and of the United Nations.[12] The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations specifies six elements of sovereign equality:

(a) States are judicially equal;

(b) Each State enjoys the rights inherent in full sovereignty;

(c) Each State has the duty to respect the personality of other States;

(d) The territorial integrity and political independence of the State are inviolable;

(e) Each State has the right freely to choose and develop its political, social, economic and cultural systems; and

(f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States.

38. The right to development is a right of individuals and peoples — a right that requires an enabling environment at the national, regional and global levels for development and an order in which all human rights and fundamental freedoms can be fully realized. While the Declaration on the Right to Development reaffirms the principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations, including the principle of sovereign equality of States, it is also based on a more substantive understanding of equality between States, as an important requirement for the realization of human rights globally (art. 3).

39. More generally, the right to development demands an enabling environment for development. The responsibility for the creation of this enabling environment encompasses three main levels: (a) States acting collectively in global and regional partnerships; (b) States acting individually as they adopt and implement policies that affect persons not strictly within their jurisdiction; and (c) States acting individually as they formulate national development policies and programmes affecting persons within their jurisdiction.[13] The first two levels overlap with States' extraterritorial obligations to respect, protect and fulfil certain human rights. According to the Committee on Economic, Social and Cultural

[10] See Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 35.

[11] See Committee on the Elimination of Discrimination against Women, general recommendation No. 25 (2004) on temporary special measures.

[12] Charter of the United Nations, art. 2 (1).

[13] A/HRC/15/WG.2/TF/2/Add.2, annex. See paper prepared by Olivier De Schutter, "The international dimensions of the right to development: a fresh start towards improving accountability", available from www.ohchr.org/EN/Issues/Development/Pages/19thSession.aspx, paras. 19–27.

Rights, States' obligations under the International Covenant on Economic and Social Rights apply both with respect to situations on the State's national territory, and outside the national territory in situations over which States parties may exercise control including in the context of business activities.[14] At the global level, the right to development implies three levels of obligations: duties to seek to conclude new international agreements; duties to cooperate in existing international forums; and duties to comply with obligations already stipulated.[15]

40. The Declaration on the Right to Development codifies, in a human rights instrument, principles that are essential for reducing inequalities among nations and ultimately global inequality. These principles include the right of peoples to self-determination and the duty to cooperate to ensure development and to eliminate obstacles to development. The following section looks at these principles in the light of different international legal instruments and of the Sustainable Development Goals.

B. Self-determination

41. The Declaration on the Right to Development affirms that this right "implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources" (art. 1 (2)). The principle of self-determination is also codified in the Charter of the United Nations (Art. 1 (2)) and the International Covenants on Human Rights.[16] It is considered a *jus cogens* norm of international law.[17] The 2030 Agenda for Sustainable Development reaffirms that "every State has, and shall freely exercise, full permanent sovereignty over all its wealth, natural resources and economic activity" (para. 18).[18]

42. The principle of self-determination implies norms that may contribute to addressing inequality between States. Many developing and least developed countries are rich in natural resources. Preserving the policy space of developing countries in the exercise of their sovereignty over their natural resources is crucial to enable them to use those resources to promote the right to development of their own peoples and inhabitants.[19] According to the Independent Expert on the promotion of a democratic and equitable international order, sovereignty over natural resources implies that if "these natural resources were 'sold' or 'assigned' pursuant to colonial, neocolonial or 'unequal treaties' or contracts, these agreements must be revised to vindicate the sovereignty of peoples over their own resources" (A/HRC/37/63, para. 14 (g)). Through the 2030 Agenda, States agreed to respect the national policy space for sustained, inclusive and sustainable economic growth, in particular for developing countries (in its para. 21).

43. The 2030 Agenda also acknowledged the importance of international financial institutions' respect for the policy space of developing countries (para. 44). This implies that any structural adjustment, austerity measures or related policies should be designed in a way to respect the policy space for complying with economic, social and cultural rights, as

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[14] General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paras. 10, 25–37. See "The international dimensions of the right to development: a fresh start towards improving accountability", paras. 28–62.

[15] "The international dimensions of the right to development: a fresh start towards improving accountability", para. 33.

[16] See also Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, principle (e), and General Assembly resolution 1803 (XVII) of 14 December 1962 entitled, "Permanent sovereignty over natural resources".

[17] See, e.g., A/HRC/37/63, para. 14 (b), and International Law Commission, conclusions of the work of the Study Group on the fragmentation of international law, contained in A/61/10, para. 251, conclusion 33.

[18] The Goals and targets of the 2030 Agenda can be found in General Assembly resolution 70/1.

[19] See, e.g., A/HRC/4/30/Add.2, para. 6, and A/HRC/4/25/Add.3, para. 7 (a) (iii).

well as the right to development, which in turn implies a duty to carry out due diligence of conducting human rights impact assessment of such measures.[20] One of the targets under Sustainable Development Goal 17 is to "respect each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development" (target 17.15).[21] Hence, respecting the policy space of countries as an expression of their right to self-determination is important to promote sustainable development and to address inequalities among countries.[22]

44. Particularly in the field of international investment law, balancing the rights of investors with self-determination and national sovereignty over natural resources is important for protecting an enabling policy space for the realization of the right to development of developing countries. The enforcement of bilateral investment agreements should be compatible with States' international human rights obligations and international human rights instruments, including allowing for nationalization of resources for preserving the rights of indigenous peoples.[23] International investment policies, agreements and dispute settlement provisions should be revised to safeguard the policy space necessary for the realization of human rights.[24]

45. The Declaration on the Right to Development also affirms States' obligation to take resolute steps to eliminate massive and flagrant violations of human rights "affected by situations such as ... colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination" (art. 5). These relate to the subjugation of one nation or people to another, a process which is enabled by and exacerbates inequality among countries, and denies the right to development of the peoples whose self-determination is violated.[25] The 2030 Agenda calls "for further effective measures and actions to be taken, in conformity with international law, to remove the obstacles to the full realization of the right of self-determination of peoples living under colonial and foreign occupation, which continue to adversely affect their economic and social development as well as their environment" (para. 35).

C. Duty to cooperate to ensure development and to remove obstacles from development

46. According to the Declaration on the Right to Development "States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development" and the full realization of human rights (art. 3 (3)). The duty of international cooperation, in this context, includes the duty to seek, in good faith, to conclude and implement international agreements that contribute to the realization of the right to development.[26] Several specific provisions of the Declaration detail how the duty to cooperate should be carried out. States "should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign

[20] See, e.g., A/HRC/37/54.

[21] The indicators related to the Sustainable Development Goals can be found in General Assembly resolution 71/313, annex IV.

[22] For an analysis of how international investment agreements have affected the right to development, see paper by Bhumika Muchhala, "International investment agreements and industrialization: realizing the right to development and the Sustainable Development Goals", available from www.ohchr.org/EN/Issues/Development/Pages/19thSession.aspx.

[23] See, for example, Inter-American Court of Human Rights, *Case of Sawhoyamaxa Indigenous Community v. Paraguay*, Judgment of 29 March 2006, para. 140.

[24] United Nations Conference on Trade and Development (UNCTAD), "Investment Policy Framework for Sustainable Development" (2015), UNCTAD/DIAE/PCB/2015/5, pp. 19, 31, 33, 78–79, 82, 85, 117 and 119.

[25] See A/71/554, paras. 38–59 and 61; see also UNCTAD/GDS/APP/2017/2, pp. 38–40.

[26] See "The international dimensions of the right to development: a fresh start towards improving accountability".

equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights" (art. 3 (3)). In particular, they "have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development" (art. 4 (1)). More importantly, to address inequalities among countries, States should take sustained action and cooperate to promote more rapid development of developing countries, and to provide the latter with appropriate means and facilities to foster their development (art. 4 (2)). Cooperation to eliminate obstacles to development includes the duty to "take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings" (art. 5). Finally, the implementation of the right to development includes the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels (art. 10).

47. One of the purposes of the United Nations is to achieve international cooperation in solving international problems. This includes cooperation to achieve "higher standards of living, full employment, and conditions of economic and social progress and development", as well as "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".[27] The Universal Declaration of Human Rights affirms international cooperation as a means of realization of everyone's economic, social and cultural rights indispensable for human dignity and free development of personality (art. 28). The Universal Declaration of Human Rights also recognizes that "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized" (art. 28).

48. A social and international order that enables the full realization of human rights requires an international economic order based on equity, sovereign equality, interdependence, common interest and cooperation among all States and international solidarity,[28] which shall "make it possible to eliminate the widening gap between the developed and the developing countries".[29] Equitable global governance is necessary to achieve this goal. The 2017 consolidated report of the Secretary-General and the High Commissioner for Human Rights on the right to development pointed out that long-standing asymmetries in global governance are an important challenge to the realization of the right to development. "The under- or non-representation of developing countries in key forums on global governance undermines the effectiveness of such forums ... Without more inclusive, democratic and participatory decision-making processes ..., those absent or whose voices are less well heard will remain on the margins of the benefits of development" (see A/HRC/36/23, para. 41). The 2030 Agenda includes a target to "ensure enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate institutions" (target 10.6) and "broaden and strengthen the participation of developing countries in institutions of global governance" (target 16.8). These targets are to be assessed on the basis of the "proportion of members and voting rights of developing countries in international organizations" (indicators 10.6.1 and 16.8.1).[30] To these ends, States have created bodies such as the Board of the Green Climate Fund, which has an equal number of members from developing and developed country Parties, including representatives of relevant United Nations regional groupings and representatives from small island developing States and least developed countries.[31]

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[27] Charter of the United Nations, Arts. 1 (3), 55 (a) and (c) and 56.

[28] See, e.g., draft declaration on the right to international solidarity, preamble, contained in A/HRC/35/35, annex.

[29] Declaration on the Establishment of a New International Economic Order, preambular para. 3.

[30] The indicators related to the Sustainable Development Goals can be found in General Assembly resolution 71/313, annex.

[31] See FCCC/CP/2011/9/Add.1, decision 3/CP.17, annex, para. 10.

49. The duty to cooperate for development in a manner that addresses inequality among countries is reinforced by international human rights treaties, which are to be interpreted in a "development-informed and interdependence-based reading".[32]

50. The Committee on Economic, Social and Cultural Rights monitors the implementation of all the rights protected by the International Covenant on Economic and Social Rights, contributing simultaneously to the full realization of the relevant elements of the right to development. In doing so, the Committee addresses, in its examination of the reports of States parties and in its dialogue with them, the eradication of poverty and underdevelopment and the creation of conditions for achieving economic and social progress and development for all, including for disadvantaged and marginalized individuals and groups (see E/C.12/2011/2, para. 7).

51. Under the International Covenant on Economic, Social and Cultural Rights, States parties undertook to take steps, individually and through international assistance and cooperation, especially economic and technical, with a view to achieving progressively full realization of the rights therein enshrined (art. 2 (1)). As the Committee has observed, the phrase "maximum of its available resources" refers to both the resources existing within a State and those available from the international community.[33] The Covenant also underlines the importance of international cooperation for the realization of the right to an adequate standard of living (art. 11 (1)), the realization of the right to food (art. 11 (2))[34] and in the scientific and cultural fields (art. 15 (4)).

52. The Covenant describes specific modalities for international cooperation and assistance to be carried out by States and by the United Nations (arts. 22–23). The Committee has affirmed that "international cooperation for development … is an obligation of all States", and it "is particularly incumbent upon those States which are in a position to assist others in this regard".[35] The Committee also expressed the view that virtually all United Nations organs and agencies involved in any aspect of international development cooperation should take into account recommendations made by the Committee in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the Covenant.[36]

53. The Committee on Economic Social and Cultural Rights has acknowledged that international cooperation may need to include major debt relief initiatives for developing countries.[37] In a 2016 statement, the Committee concluded that "all States should ensure that they do not impose obligations on borrowing States that would lead them to adopt retrogressive measures in violation of their obligations under the Covenant" (E/C.12/2016/1, para. 10). Cooperation for addressing sovereign debt was also reflected in a target to Sustainable Development Goal 17 (target 17.4) and in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development (paras. 93–102). To be successful, such cooperation should effectively take measures to counter the actions of the "non-cooperative minority bondholders" that disrupt the will of the large majority of bondholders who accept a restructuring of a debt-crisis country's obligations (ibid., para. 100), the so-called "vulture funds".[38] Sovereign debt restructuring should follow the Basic Principles on Sovereign Debt Restructuring Processes. In addition, as mentioned by the Independent Expert on foreign debt, not only will "curbing illicit financial flows … be essential for realizing human rights and achieving sustainable

[32] Joint statement of Chairs of the human rights treaty bodies on the occasion of the twenty-fifth anniversary of the Declaration on the Right to Development, available at www2.ohchr.org/SPdocs/Issues/Development/JointStatChairUNTB_25AnniversaryRtD.doc.

[33] General comment No. 3 (1990) on the nature of States parties' obligations, para. 13.

[34] See also general comment No. 12 (1999) on the right to adequate food, paras. 36–41.

[35] General comment No. 3 (1990) on the nature of States parties' obligations, para. 14.

[36] General comment No. 2 (1990) on international technical assistance measures, para. 2.

[37] Ibid., para. 9.

[38] See Human Rights Council resolution 27/30. See also, e.g., A/HRC/20/23, A/HRC/33/54, A/HRC/14/21 and A/72/153, and "The international dimensions of the right to development: a fresh start towards improving accountability", paras. 65–72.

development" but reducing such flows "should be seen as an important element in the fight against unsustainable debt" (see A/HRC/31/61, paras. 4 and 35).

54. The Convention on the Rights of the Child (art. 4) and the Convention on the Rights of Persons with Disabilities (art. 32) also acknowledge the importance of international cooperation for realizing economic, social and cultural rights. Interpreting the duty to undertake international cooperation, the Committee on the Rights of the Child has urged States to meet the United Nations target for development assistance of 0.7 per cent[39] of gross domestic product, and stated that assistance should be rights-based.[40]

55. The 0.7 target has been reiterated in Sustainable Development Goals target 17.2, which further encourages providing at least 0.2 official development assistance to least developed countries.[41] Other Sustainable Development Goals targets also call for official development assistance and financial flows to developing countries,[42] especially to countries most in need, in particular, least developed countries, African countries, small island developing States and landlocked developing States (target 10.b). Official development assistance should not be accompanied by constraints that affect the ownership of policy space by the recipient State to establish development priorities and address poverty (target 17.15 and indicator 17.15.1),[43] and should be predictable, effective and transparent.[44]

56. Remittances by migrant workers are another source of financial flow that transfers wealth from more developed countries to less developed ones, promoting the right to development in the latter and contributing to address inequality among countries. The right to make such transfers is recognized by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (arts. 32 and 47). The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families has recommended that States "take measures to reduce the cost of sending and receiving funds, taking into account the principle of gender equality, in line with Sustainable Development Goals target 10.c, and facilitate access to safe and affordable remittance transfer systems, the productive use of remittances and their low cost transmission to rural regions".[45] States should hence cooperate to address obstacles to these remittances.

57. States' duty to cooperate for ensuring development and for removing obstacles from development is closely related to principles and obligations in other fields of international law. International trade law and international investment law include the principle of special and differentiated treatment,[46] which aims at granting more favourable treatment and conditions to developing and least developed countries so that they may benefit from and develop through trade and investment.[47] Sustainable Development Goal 10 has as one

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[39] General comment No. 5 (2003) on general measures of implementation of the Convention, para. 61, with reference to A/CONF.198/11.

[40] Ibid.

[41] In line with the Addis Ababa Action Agenda, para. 51. See also indicator 17.2.1.

[42] Targets 1.a., 2.a, 3.b, 4.b, 6.a., 7.b, 8.a, 9.a, 10.b, 12.a, 13.b, 15.a and b, 17.3 and 17.7. See also indicators 1.a.3, 2.a.2, 3.b.2, 4.b.1, 6.a.1, 7.b.1, 8.a.1, 9.a.1, 10.b.1, 12.a.1, 13.b.1, 15.a.1 and b.1, 17.3.1 and 17.7.1.

[43] See also A/70/274, para. 19.

[44] Busan Partnership for Effective Development Cooperation, outcome document of the Fourth High-level Forum on Aid Effectiveness held in Busan, Republic of Korea, from 29 November to 1 December 2011. See also "The international dimensions of the right to development: a fresh start towards improving accountability", paras. 79–93.

[45] CMW/C/IDN/CO/1, para. 45; CMW/C/BGD/CO/1, para. 46. See also CMW/C/LKA/CO/2, para. 47. See also indicators 10.c.1 and 17.3.2.

[46] See decision of the Contracting Parties of the General Agreement on Tariffs and Trade, decision on differential and more favourable treatment, reciprocity and fuller participation of developing countries, 28 November 1979, L/4903. The principle is closely related to the principle of preferential and non-reciprocal treatment, see Declaration on the Establishment of a New International Economic Order, art. 4 (n).

[47] See World Trade Organization, "Special and differential treatment provisions in WTO agreements and decisions", WT/COMTD/W/196.

of its targets to "implement the principle of special and differential treatment for developing countries, in particular least developed countries, in accordance with World Trade Organization agreements". The corresponding indicator is "proportion of tariff lines applied to imports from least developed countries and developing countries with zero-tariff" (indicator 10.a.1). Special and differentiated treatment can go beyond tariff cuts. One of the indicators to Sustainable Development Goal 14 recognizes that "appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organization fisheries subsidies negotiations".[48] Informed by the principle of special and differentiated treatment, the World Trade Organization has adopted an amendment to intellectual property rules to ease poor countries' access to affordable medicines.[49] This decision, in line with Sustainable Development Goals target 3.b, has the potential to reduce inequality among countries with regard to access to public health.[50]

58. The international environmental law principle of common but differentiated responsibilities establishes that the "developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command".[51] The principle is also enshrined in the United Nations Framework Convention on Climate Change (art. 3 (1)) and the Paris Agreement (art. 2 (2)). The principle of common but differentiated responsibilities informs climate finance initiatives[52] that may provide important tools to help implement the right to development in developing countries.[53] The principle is also referred to in the 2030 Agenda for Sustainable Development. Sustainable Development Goal 13 includes as a relevant target to "Implement the commitment undertaken by developed-country parties to the United Nations Framework Convention on Climate Change to a goal of mobilizing jointly USD100 billion annually by 2020 from all sources to address the needs of developing countries in the context of meaningful mitigation actions and transparency on implementation and fully operationalize the Green Climate Fund through its capitalization as soon as possible".[54] It also includes, in an indicator to target 13.b the "number of least developed countries and small island developing States that are receiving specialized support, and amount of support, including finance, technology and capacity-building, for mechanisms for raising capacities for effective climate change-related planning and management" (indicator 13.b.1). By placing a more substantial burden on developed countries on the basis of their differentiated responsibilities and respective capacities, the principle helps to address inequalities among countries.

59. The Declaration on the Right to Development affirms that States "should do their utmost to achieve general and complete disarmament" and "to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries" (art. 7). Inequalities among countries, including asymmetries of power, are aggravated by the military might of States. Though there has been a decline of military expenditure since the 1960s, it still surpasses 2 per cent the world

[48] Target 14.6.

[49] World Trade Organization, "Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and public health", WT/L/540 and Corr.1.

[50] For other considerations in putting trade in the service of the right to development, see "The international dimensions of the right to development: a fresh start towards improving accountability", paras. 94–113.

[51] Rio Declaration on Environment and Development, principle 7.

[52] For example, the clean development mechanism (Kyoto Protocol to the United Nations Framework Convention on Climate Change, art. 12), the Adaptation Fund (FCCC/CP/2001/13/Add.1, decision 10/CP.7) and the Green Climate Fund (FCCC/CP/2010/7/Add.1, decision 1/CP.16, para. 102).

[53] See "Promoting rights-based climate finance for people and planet". See also Adaptation Fund Board, "Environmental and social policy", available at www.adaptation-fund.org/wp-content/uploads/2013/11/Amended-March-2016_-OPG-ANNEX-3-Environmental-social-policy-March-2016.pdf, paras. 14–19.

[54] Target 13.a.

GDP,[55] many times higher than the average percentage of development assistance by developed countries, which barely reaches 0.3 per cent of their GDP.[56] The duty to cooperate for effective disarmament has been reinforced by treaties relating to means of warfare, including the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects and the Protocols thereto,[57] the Convention on Cluster Munitions and the recent Treaty on the Prohibition of Nuclear Weapons. To realize the right to development, the resources released from the banning of these weapons and from the maintenance of their stockpiles should be reoriented towards social services, the creation of employment in peaceful industries, and greater support to the 2030 Agenda for Sustainable Development (see A/HRC/27/51, para. 71). Through Sustainable Development Goals target 16.4, States committed to reducing significantly the illicit arms flow. The Arms Trade Treaty helps tackle illicit arms flows, which contribute to international humanitarian law and human rights violations[58] and, consequently, affect the exercise of the right to development,[59] especially in developing countries.

60. The duty to cooperate to remove obstacles to development has been understood to corroborate the duty to ensure respect for international humanitarian law instruments,[60] including in the context of belligerent occupation. Hence, all States and the international community as a whole should cooperate to end violations of international humanitarian law that affect the right to development of the people occupied and to end procrastinated occupation itself.

61. Finally, the United Nations Convention on the Law of the Sea enshrines the principle of "common heritage of mankind" (art. 136).[61] The Convention contains provisions that can contribute to addressing inequalities among States, including the provision of equitable sharing of financial and other economic benefits derived from activities in the deep seabed, or the Area (art. 140),[62] and transfer of technology and scientific knowledge relating to activities in the Area to developing countries and to the International Seabed Authority and to an Enterprise to be established by it (art. 144). Similar provisions on the equitable sharing of benefits of common resources can also be found in the Convention on Biological Diversity (arts. 1 and 15 (7)).

IV. Conclusions and recommendations

62. **International law, including human rights treaties and the Declaration on the Right to Development, provides a normative framework to address inequalities among countries, as envisioned in the 2030 Agenda for Sustainable Development. Applicable principles of international law include self-determination and the principle of international cooperation. A joint reading of these principles with provisions of the Declaration on the Right to Development, the Universal Declaration of Human Rights and relevant international treaties, as well as the 2030 Agenda for Sustainable Development provides guidance for assessing and addressing inequality among countries.**

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[55] https://data.worldbank.org/indicator/MS.MIL.XPND.GD.ZS.

[56] https://data.oecd.org/oda/net-oda.htm.

[57] Protocol on Non-Detectable Fragments (Protocol I); Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II); Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III); Protocol on Blinding Laser Weapons (Protocol IV); Protocol on Explosive Remnants of War (Protocol V).

[58] A/CONF.217/2013/L.3, annex, arts. 6 (3) and 7 (3), as adopted by the General Assembly in its resolution 67/234 B of 2 April 2013.

[59] Declaration on the Right to Development, para. 7.

[60] Article 1 common to the 1949 Geneva Conventions.

[61] See also arts. 137–149. The concept was coined as a proposal to address inequalities among countries. See A/C.1/PV.1515, para. 91, and A/C.1/PV.1516.

[62] See also art. 150 (i).

63. **In implementing the 2030 Development Agenda and Sustainable Development Goals, States should:**

(a) **Take into account the normative framework contained in the Declaration on the Right to Development, the Universal Declaration of Human Rights and other international human rights instruments;**

(b) **Interpret international treaties in the light of these standards, in particular the right to development;**

(c) **Promote and maintain the policy space of developing countries to ensure that the management of their natural resources contributes to the realization of the right to development and sustainable development;**

(d) **Undertake human rights impact assessments in relation to structural adjustments, austerity measures and other prescriptions for economic reform;**

(e) **Work to achieve equitable representation of developing countries in international decision-making that affects them in institutions of global governance, address international inequality and the right to development, and set up transparent and participatory processes open to other stakeholders, including civil society, at all levels;**

(f) **Encourage sovereign debt relief initiatives that benefit developing countries and cooperation to counter vulture funds that disrupt the capacity of States to negotiate debt restructuring;**

(g) **Uphold the commitments made in the Addis Ababa Action Agenda and Sustainable Development Goals target 17.1 with respect to capacity-building for tax administration, including through targeted use of official development assistance and provision of technical assistance and other forms of support;**

(h) **Increase official development assistance, especially to least developed countries and countries in most need, while respecting the right and duty of the developing countries to determine their own development priorities and ensure that assistance is predictable, effective and transparent;**

(i) **Promote measures for reducing costs and facilitating the transfer of remittances by migrant workers, including undocumented migrants, to their families;**

(j) **Promote the adoption of trade and investment policies that foster the development of developing and least developed countries in accordance with the principle of special and differentiated treatment;**

(k) **Promote the adoption of environmental policies that contribute to sustainable development and the mitigation of environmental disasters in developing and least developed countries, in particular those most vulnerable to climate change, taking into account the principle of common but differentiated responsibilities;**

(l) **Promote negotiations in good faith towards disarmament and the investment of the resources released in the development of developing and least developed countries;**

(m) **Promote international cooperation to ensure respect of international humanitarian law and human rights law, in particular with the view to ending foreign occupation and respecting the right to development of the peoples under occupation;**

(n) **Promote fair and equitable distribution of the benefits resulting from development, globalization and global commons, including the common heritage of humankind.**